

**EX. 10**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DARCY M. BLACK,

Plaintiff,

-vs-

BUFFALO MEAT SERVICE, INC., doing business  
as BOULEVARD BLACK ANGUS, also known as  
BLACK ANGUS MEATS, also known as  
BLACK ANGUS MEATS & SEAFOOD,  
ROBERT SEIBERT,  
DIANE SEIBERT,  
KEEGAN ROBERTS,

Defendants.

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Examination Before Trial of

MARK LEIBLE, taken pursuant to the Federal Rules of Civil  
Procedure, in the law offices of GRECO TRAPP, PLLC, 1700  
Rand Building, 14 Lafayette Square, Buffalo, New York,  
taken on January 22, 2018, commencing at 9:27 A.M., before  
MARY ANN MORETTA, Notary Public.

1 A. No.

2 Q. Do you see in your employment application it says  
3 employment, desired position, it's blank? Do you  
4 know why you left it blank?

5 A. Because I didn't know what positions that were  
6 there.

7 Q. Okay. Did a sign on the door say what positions  
8 they were looking for or did it just say help  
9 wanted?

10 A. Just help wanted.

11 Q. Do you have any understanding of what you would  
12 be doing once you were hired? There came a time  
13 when you were offered a position, right?

14 A. Yes.

15 Q. Okay. And when you were offered the position,  
16 did you know what you would be doing?

17 A. Yes.

18 Q. What would you be doing?

19 A. I was hired to wrap meat and wait on the counter  
20 and fill deliveries.

21 Q. Okay. And then did there come a time when you  
22 actually started working there?

23 A. Yes.

1 Q. Do you recall when that was?

2 A. September of 2001.

3 Q. If you look at Exhibit 35, if you go to the third  
4 page which is DEF0180, see on the bottom you see  
5 little numbers, that means -- DEF means Black  
6 Angus Meats' counsel gave us those documents.  
7 They are Black Angus Meats' documents. So do you  
8 see that's a form W-4?

9 A. Uh-huh.

10 Q. You have to say yes or no, Mark.

11 A. Yes.

12 Q. Okay. Do you see the date September 5, 2001?

13 A. Yep.

14 Q. Does that refresh your recollection that was when  
15 you started working?

16 A. Yes.

17 Q. Okay. When you started working, who was your  
18 direct boss or supervisor?

19 A. I would say Lisa.

20 Q. Do you know if she had a last name, what her last  
21 name was?

22 A. I don't know.

23 Q. And did she remain your full -- your boss?

1 A. Yes, laborer. Cleaning and trimming bushes,  
2 trees.

3 Q. And why did you leave Black Angus Meats to work  
4 for him?

5 A. Just a change of scenery, something different.

6 Q. Were you having any problems at Black Angus  
7 Meats?

8 A. No.

9 Q. From the time you started in September of 2001  
10 until the time you left to go work at Heritage  
11 Tree Care, did you have any problems with  
12 arriving to work on time?

13 A. I might have been late a few times.

14 Q. Okay. Just so the record is clear here, let me  
15 show you what's been marked as Exhibit 36, which  
16 is a payroll pre-check writing report for the pay  
17 period ending 1/2/2005, which is the first one we  
18 were given for you. So they didn't give us the  
19 ones from 2001. It starts at 2005. At that  
20 time, it indicates you were making, it says --  
21 for regular, it says thirty point one hours and  
22 earned three hundred eight dollars and  
23 fifty-three cents.

1 A. All right.

2 Q. Now, do you recall, at that time, earning ten  
3 dollars and twenty-five cents an hour?

4 MR. OPPENHEIMER: She does the math.

5 THE WITNESS: Yeah. I guess so.

6 BY MS. GRECO:

7 Q. At any time between when you started in 2001 and  
8 January of 2005, did you receive health insurance  
9 from Black Angus Meats?

10 A. No.

11 Q. Let me show you what's been marked as Exhibit  
12 223, which for the record is payroll pre-check  
13 writing report for the pay period ending  
14 9/25/2005. Do you see where your name is?

15 A. Yes.

16 Q. Do you see where it indicates you worked  
17 thirty-nine point two hours and earned four  
18 hundred one dollars and eighty cents?

19 A. Yes.

20 Q. Now, looking down -- strike that. I'm sorry. Go  
21 to the second page, which is for the payroll  
22 period ending October 2, 2005, which indicates  
23 you worked forty hours and made four hundred ten

1 Q. Who did you ask about it?

2 A. Probably Diane.

3 Q. Okay. And what did Diane say when you asked her  
4 about it?

5 A. She said yeah, we can get something going for  
6 you.

7 Q. Did she at any time indicate to you what the cost  
8 of the health insurance would be?

9 A. No. We sat down with the representative from  
10 BlueCross BlueShield and he went over it with us.

11 Q. And so when you say we sat down with a  
12 representative from BlueCross BlueShield, who was  
13 that?

14 A. They sat in the office with them. I think Diane  
15 was sitting there.

16 Q. Okay. Do you recall what the cost was at that  
17 time for BlueCross BlueShield for you? You have  
18 to answer.

19 A. No, I don't.

20 Q. Do you know why you were looking for health  
21 insurance at this time?

22 A. Just to have it. I was single and --

23 Q. Had you been on your parents' health insurance

1 Q. Okay. Let me show you Exhibit 38. Looking at  
2 the payroll pre-check writing report for the pay  
3 period ending 11/26/06 for you, you were making  
4 -- working forty hours making four hundred ten  
5 dollars, which do you recognize to be ten dollars  
6 and twenty-five cents an hour?

7 A. Yes.

8 Q. Now, looking at the third page, which is payroll  
9 pre-check writing report for the pay period  
10 ending 12/4/2006 for you, do you see that you  
11 were working forty hours making four hundred  
12 fifty dollars?

13 A. Yes.

14 Q. Okay. Do you recognize that to be eleven dollars  
15 and twenty-five cents an hour?

16 A. Yes.

17 Q. Okay. And how did you become aware of that pay  
18 raise?

19 MR. OPPENHEIMER: Form.

20 THE WITNESS: They would either have told me or I had  
21 a Post-it in the inside.

22 BY MS. GRECO:

23 Q. Let me show you what's been marked as Exhibit 39,



1       which is a W-2 for you for the year 2006, which  
2       indicates you earned as wages, tips and other  
3       compensation twenty-two thousand seven hundred  
4       sixty-seven dollars.

5     A.   Yes.

6     Q.   Okay.  Is that accurate?

7     A.   Yes.

8     Q.   Did you receive any form of compensation that was  
9       not included in the paycheck or on your W-2?

10    A.   No.

11    Q.   Let me show you what's been marked as Exhibit 40.  
12       And looking at the payroll pre-check writing  
13       report for the pay period ending June 3, 2007,  
14       you can see that you are on the payroll.  Do you  
15       see that?

16    A.   Yes.

17    Q.   You are still receiving -- paying for medical  
18       insurance, right?

19    A.   Yes.

20    Q.   Looking to the next one which is pay period  
21       ending March 8th, 2009.  So approximately a year  
22       and three quarters later?

23    A.   Yes.

1 fill packs, fill deliveries. Then usually, when  
2 those were done, I would go make sausage for the  
3 counter and stuff and maybe cut a little bit of  
4 meat depending on the day.

5 Q. Okay. Do you recall being Darcy Black's partner  
6 with filling packs?

7 MR. OPPENHEIMER: Form.

8 THE WITNESS: Yes.

9 BY MS. GRECO:

10 Q. And when you say making sausage, who taught you  
11 how to do that? Is it just a recipe?

12 MR. OPPENHEIMER: Form.

13 BY MS. GRECO:

14 Q. Strike that. I'm an Italian girl. I grew up  
15 with sausage. My question to you is -- I'm  
16 familiar how to make it, so I'm going to go  
17 through the process.

18 A. All right.

19 Q. What's the first step in making sausage?

20 A. Grind the meat.

21 Q. Did someone teach you how to grind the meat or  
22 did you use ground meat?

23 A. I learned how to grind it.

1           was your partner doing packing, would it be fair  
2           to say she observed when you were there on time  
3           and when you weren't?

4   MR. OPPENHEIMER:   I'm sorry.   Is that a question?

5   BY MS. GRECO:

6   Q.   When Darcy Black was a partner, is it fair to say  
7           she could observe -- strike that.   When you were  
8           Darcy Black's partner, was she starting work at  
9           seven o'clock also?

10   A.   I believe so.

11   Q.   And did you ever observe her being late?

12   A.   Not that I recall.

13   Q.   Do you recall being there any issue of her being  
14           late?

15   A.   No.

16   Q.   Okay.   Were you having a problem with getting to  
17           work on time so it was happening on a regular  
18           basis?

19   A.   No.

20   Q.   Okay.   Do you recall -- strike that.   When you  
21           were late for work, do you recall how late you  
22           were?

23   A.   Usually five, ten minutes.

1 A. Not really, no.

2 Q. Is it fair to say you didn't consider it a big  
3 issue?

4 A. It's good to be punctual.

5 Q. Did you ever feel your employment was in  
6 jeopardy, you might lose your job because you  
7 were having problems getting to work on time?

8 A. No.

9 Q. Okay. What did Thomas Howells do during the time  
10 you were employed there, that first period of  
11 employment?

12 A. He was cutting meat.

13 Q. Is that all he did?

14 A. For the most part.

15 Q. Was --

16 A. He would do some ordering.

17 Q. Okay. Anything else?

18 A. No.

19 Q. Was he the person -- when Nelson Schultz was no  
20 longer there, was Thomas Howells who was the main  
21 butcher in charge?

22 MR. OPPENHEIMER: Form.

23 BY MS. GRECO:

1 Q. From your recollection.

2 A. Yeah.

3 Q. Okay. And so what does the main butcher do at  
4 Black Angus Meats?

5 A. He cuts all the meat for the counter, all the  
6 steaks, and sets them up on trays and cuts the  
7 stew and the pepper and grinds the beef for the  
8 counter.

9 MS. GRECO: Could you read that back.

10 (Whereupon, the above-requested answer was  
11 then read back by the reporter.)

12 BY MS. GRECO:

13 Q. Anything else?

14 A. Make cube steaks.

15 Q. Anything else?

16 A. No. Cut meat for packs, too, to be wrapped and  
17 frozen.

18 Q. Anything else?

19 A. No.

20 Q. Did he make sausage?

21 A. No.

22 Q. Would he order the meat?

23 A. Sometimes.

1 A. It varies. Depends on if it's open in May or  
2 middle of the season. Bow, shotgun.

3 Q. Okay. Did you ever get more than one deer in a  
4 day?

5 A. Yeah.

6 Q. Did you ever get more than two deers in a day?

7 A. Yeah.

8 Q. Did you ever get more than three deers in a day?

9 A. Yeah.

10 Q. Did you ever get more than four deers in a day?

11 A. Yeah.

12 Q. Did you ever get more than five?

13 A. Yes.

14 Q. What's the most deer you've ever seen in one day?

15 I have no idea. That's why I'm asking the  
16 question.

17 A. A hundred thirty, a hundred sixty.

18 Q. Deer?

19 A. Yes.

20 Q. A day?

21 A. Yes, opening day of shotgun.

22 Q. How long does it take to butcher one deer?

23 A. We have a good system.

1 Q. Okay. I haven't seen your system. So how long  
2 would it take to butcher a deer?

3 MR. OPPENHEIMER: From like --

4 BY MS. GRECO:

5 Q. I'm talking about from the butcher's point of  
6 view.

7 MR. OPPENHEIMER: So the hide's been ripped off.

8 BY MS. GRECO:

9 Q. From the butcher's point of view, how long does  
10 it take to butcher a deer?

11 A. Maybe fifteen, twenty minutes.

12 Q. For a whole deer. So on an average day during  
13 deer season, how many deer do you bring in?

14 MR. OPPENHEIMER: Form.

15 BY MS. GRECO:

16 Q. If you know what I mean. You just told me how  
17 many deer you bring in in a day.

18 A. Yes.

19 MR. OPPENHEIMER: He said on opening day.

20 BY MS. GRECO:

21 Q. That's opening day. Well, there's a period of  
22 time, right, when there's a lot of hunting done?

23 A. Yeah.

1           was available?

2   A.   No.

3   Q.   Okay.  And would you agree with me, if it was  
4       available, it should have been available to all  
5       the employees?

6   MR. OPPENHEIMER:  Form.

7   THE WITNESS:  I don't know.

8   BY MS. GRECO:

9   Q.   Did you answer?

10  A.   I don't know what it is, so sure.

11  Q.   Something that would pay an employee if they had  
12       to be out of work.

13  MR. OPPENHEIMER:  Form.

14  BY MS. GRECO:

15  Q.   If Black Angus Meat wasn't paying for it, but it  
16       was available for you to have, would you have  
17       wanted to know?

18  MR. OPPENHEIMER:  Form.

19  BY MS. GRECO:

20  Q.   Maybe you could have paid for yourself, like you  
21       paid for your part of your insurance?

22  A.   Yeah.

23  Q.   Let me show you what's been marked Exhibit 43,



1       which for the record includes payroll pre-check  
2       writing report for the period ending August 29th,  
3       2010, which indicates that you worked forty hours  
4       and made four hundred eighty dollars, which would  
5       be twelve dollars an hour. Is that accurate?

6       A. Yes.

7       Q. Okay. Now, going to the next page, which is  
8       payroll pre-check writing report for the period  
9       ending September 5, 2010, where it indicates that  
10      you worked forty hours and made five hundred  
11      twenty dollars. Do you recognize that as a raise  
12      to thirteen dollars an hour?

13      MR. OPPENHEIMER: Form.

14      THE WITNESS: Yes.

15      BY MS. GRECO:

16      Q. And how were you notified, if at all, of that  
17      raise?

18      A. I don't recall.

19      Q. Did you ever have any meeting with anyone at  
20      Black Angus Meat when they reviewed your  
21      performance?

22      A. They told me I'm doing a good job here and there.

23      Q. Well, so in the normal course of conversation,

1       deduction under you. Do you see that?

2       A. Yes.

3       Q. Now, going to the payroll journal for the period  
4       ending 9/4/2011 and looking at your name, do you  
5       see that you have a medical deduction of  
6       sixty-five dollars?

7       A. Yes.

8       Q. Okay. How did it come about that you had a  
9       medical deduction that period of time as opposed  
10      to when you first returned to work?

11      A. I don't know.

12      Q. Was Black Angus Meat paying for your medical  
13      insurance -- strike that. When you returned to  
14      work at Black Angus Meat --

15      A. Right.

16      Q. -- did they provide you with medical insurance?

17      A. Yeah. I got back on the same plan I had.

18      Q. All right. And do you know, did anyone indicate  
19      to you if they were going to charge you anything  
20      towards it at that time when you got back on the  
21      plan? What I'm saying, if we look at the records  
22      they gave us, I know when you came back to work.

23      A. Right.

1 MR. OPPENHEIMER: Form.

2 THE WITNESS: Any time of the day we were open.

3 BY MS. GRECO:

4 Q. If Diane wasn't there or Debbie wasn't there --  
5 you mean regular hours?

6 A. Regular store hours.

7 Q. So what was regular store hours?

8 A. Ten to seven.

9 Q. All right. Is it fair to say either Debbie would  
10 be -- Debbie Negrych would be there or Diane  
11 would be there?

12 A. Usually.

13 Q. But you weren't a person that would take any kind  
14 of money or --

15 A. No, not from deer customers.

16 Q. Did you take money from other customers?

17 A. Yes. Ringing people at the register.

18 Q. Is deer meat rung out in the same register?

19 A. No.

20 Q. Where is deer meat rung out?

21 A. In a different register.

22 Q. Where is that register?

23 A. In the store.

1 Q. Where in the store?

2 A. Against the wall.

3 Q. Do you know why they had two registers?

4 A. Because --

5 MR. OPPENHEIMER: Form.

6 THE WITNESS: Because deer had to be taxed.

7 BY MS. GRECO:

8 Q. Is there tax on food?

9 A. No.

10 Q. So at Black Angus Meat there's no sales tax on  
11 any of the food --

12 A. No.

13 Q. -- except for deer meat. And you couldn't ring  
14 sales tax on the other register?

15 MR. OPPENHEIMER: Form.

16 BY MS. GRECO:

17 Q. Is that what you are saying?

18 A. I don't know.

19 MR. OPPENHEIMER: Form.

20 BY MS. GRECO:

21 Q. Who told you why there were two different  
22 registers? Did anyone tell you why there were  
23 two different registers?

1 A. No. One's for deer, one's for the store.

2 Q. Who told you that one is for the deer, that one  
3 is for the store, or did you figure it out  
4 yourself?

5 A. I don't know. Someone did.

6 Q. But you had the ability to ring out someone in  
7 the store, but not somebody for deer, is that  
8 true?

9 MR. OPPENHEIMER: Form.

10 BY MS. GRECO:

11 Q. You can answer.

12 A. I just didn't do that one because I was busy  
13 doing other stuff.

14 Q. You said you were the person that took the deer  
15 in and sometimes you brought them in the back.  
16 Would you be the person that would be there when  
17 the hunter came in?

18 MR. OPPENHEIMER: Form.

19 THE WITNESS: Not necessarily.

20 BY MS. GRECO:

21 Q. Did you ever learn how to take food stamps?

22 A. No -- well, yeah.

23 Q. Did you ever learn how to secure money in food

1 Q. That's tough on your legs, meaning you wanted to  
2 sit down?

3 A. Yeah. Standing all day.

4 Q. Did anyone call you in from your fifteen-minute  
5 breaks or were you allowed to take them?

6 MR. OPPENHEIMER: Form.

7 BY MS. GRECO:

8 Q. Do you understand what I mean? Were you allowed  
9 to take your fifteen-minute breaks in piece --  
10 strike that. Were you allowed to take your  
11 fifteen-minute breaks uninterrupted? Do you know  
12 what I mean by that?

13 A. Yeah. Yeah.

14 Q. Just so I'm clear, the answer is yes?

15 A. Yes.

16 Q. Okay. Did you ever feel that your breaks were  
17 being scrutinized, meaning they were looking at  
18 you -- very closely at you to see if you were  
19 taking too much time?

20 A. No.

21 Q. And if you were to arrive late, would you write  
22 that down on your time slip?

23 A. Yes.

1 Q. Did you ever look down to see if everyone's time  
2 card was there?

3 A. No.

4 Q. If you wanted a Saturday off, what would you do  
5 at any time you were employed at Black Angus  
6 Meat? This is a general question.

7 A. I would ask Diane or Keegan.

8 Q. Did you have to write your name on any special  
9 calendar or would you just ask them?

10 A. We would put down on a calendar they have in  
11 there for time off.

12 Q. Were you ever denied a request for time off?

13 A. Not that I recall.

14 Q. Did you ever deliver flyers?

15 A. Yes.

16 Q. Okay. Was there a special training process to  
17 deliver flyers?

18 MR. OPPENHEIMER: Form.

19 BY MS. GRECO:

20 Q. Or do you just deliver them?

21 MR. OPPENHEIMER: Form.

22 THE WITNESS: No.

23 BY MS. GRECO:

1 interested in you versus Jamie. The two of you  
2 both are in the store. One of you is not out  
3 somewhere. You are both there. Would Jamie come  
4 to you or would he cut it himself? That's all  
5 I'm trying to find out.

6 MR. OPPENHEIMER: Form.

7 THE WITNESS: Either way. If I was busy, he could do  
8 it or if he was busy, I would do it.

9 BY MS. GRECO:

10 Q. What if you are both not busy?

11 A. Then I would probably do it because I'm up there.  
12 I'm a cutter when he's gone.

13 Q. Who's gone?

14 A. Tom.

15 Q. That's what I'm asking. So if Tom Howells was  
16 gone, then you are the person that cuts?

17 A. Yeah.

18 Q. If you are not there, then Jamie Lapress could  
19 cut?

20 A. Yes.

21 Q. Were you aware of Nicole Seibert ever being  
22 taught how to cut?

23 A. No.



1 Q. And was it your understanding he was hired just  
2 to work sporadically?

3 MR. OPPENHEIMER: Form.

4 THE WITNESS: Yeah.

5 BY MS. GRECO:

6 Q. Did you work during the time Franklin Bennett  
7 worked there, the same hours?

8 MR. OPPENHEIMER: Form.

9 BY MS. GRECO:

10 Q. Strike that. Did your hours ever cross over with  
11 Franklin Bennett?

12 A. Yes.

13 Q. What would you observe him do, what types of  
14 things?

15 A. He would put load away, deliveries that come in,  
16 put them in the coolers and on the shelves, some  
17 cleaning.

18 Q. Anything else?

19 A. Take out the cardboard and odds-and-ends.

20 Q. Was he ever taught to make sausage?

21 A. No.

22 Q. Was he ever taught to cut meat?

23 A. No.

1 A. Yes.

2 Q. Let's continue. Was there a policy at any time  
3 you worked at Black Angus Meat regarding the use  
4 of cell phones?

5 A. Not really, but they didn't like them there.

6 Q. Did you have a cell phone at any time when you  
7 worked at Black Angus Meat?

8 A. Yes.

9 Q. Okay. Did you bring it to work?

10 A. Yeah.

11 Q. And did you have it on during work, on vibrate or  
12 something?

13 A. Uh-huh.

14 Q. You have to talk.

15 A. Yes.

16 Q. And did you receive calls during work?

17 A. Yeah.

18 Q. Okay. And did anyone ever counsel you on it or  
19 say you shouldn't do that?

20 A. I didn't answer them.

21 Q. How would you answer them, on your break?

22 A. Yes.

23 Q. And would anyone ever text you during work?

1 A. Yeah.

2 Q. Would you ever text them back during work?

3 A. No.

4 Q. Would you do that on your break?

5 A. Uh-huh. Yes.

6 Q. Okay. And you are a smoker?

7 A. Yes.

8 Q. And did you ever take a smoke break with Jamie  
9 Lapress?

10 A. Yeah.

11 Q. And have you ever used marijuana?

12 A. No.

13 Q. And did you ever see Jamie Lapress use marijuana?

14 A. No.

15 Q. And do you know what the smell of marijuana is?

16 A. Yes.

17 Q. And did you ever smell marijuana on Jamie Lapress  
18 at work?

19 A. No.

20 Q. Do you know if any other employees smelled  
21 marijuana on Jamie Lapress at work?

22 MR. OPPENHEIMER: Form.

23 THE WITNESS: No.

1 say they were looking at their watch to suggest  
2 Darcy Black's break or anybody else's break was  
3 over?

4 A. No.

5 Q. Did you ever feel compelled to -- well, were you  
6 required to report your smoke break times on your  
7 time card?

8 A. No.

9 Q. Did you ever feel that you needed to --

10 A. No.

11 Q. -- because you were concerned they were watching  
12 you?

13 A. No.

14 Q. Were you ever told that you had to work every  
15 Saturday?

16 A. No.

17 Q. Were you ever scheduled off for Saturdays?

18 A. Yeah.

19 Q. Okay. Were you ever scheduled off for Saturdays  
20 without asking?

21 A. Once in a while.

22 Q. Do you know how that would happen or it just  
23 would?

1 out?

2 A. No.

3 Q. Are you aware of Sean Round asking Raelean Rush  
4 out to work while they were in the pack room at  
5 Black Angus Meat?

6 A. No.

7 Q. Would it -- would you -- if a male employee said  
8 to a female employee at Black Angus Meat that she  
9 has a nice ass, would that be offensive?

10 A. Yeah.

11 Q. Do you believe that would be discriminatory?

12 A. Yeah.

13 Q. Would it ever be appropriate for a male employee  
14 at Black Angus Meat to say to a female employee  
15 your headlights are on?

16 A. No.

17 Q. Do you know what your headlights are on means?

18 A. No.

19 Q. Why wouldn't it be appropriate?

20 A. I don't know.

21 Q. You have no idea what your headlights could mean  
22 in a sexual context?

23 A. No.

1 Q. Did you ever hear any male employee at Black  
2 Angus Meat make sexual comments regarding  
3 customers?

4 A. No.

5 Q. Did you ever hear any male employee say to  
6 another male employee go look at the woman at the  
7 counter, her headlights are on?

8 A. No.

9 Q. Would that be sexually offensive?

10 A. Yes.

11 Q. Would that be inappropriate?

12 A. Yes.

13 Q. Would it ever be appropriate for a male employee  
14 to say to a female employee, oh, look at that  
15 cleavage?

16 A. No.

17 Q. Would it be ever be appropriate for a male  
18 employee at Black Angus Meat to comment on the  
19 breasts of a female customer?

20 A. No.

21 Q. Would it ever be appropriate at Black Angus Meat  
22 for a male employee to make comments about the  
23 cleavage of a female customer?

1 A. No.

2 Q. Would that be sexually offensive?

3 A. Yes.

4 Q. Did you ever hear a male employee at Black Angus  
5 Meat say to a female employee does the carpet  
6 match the drapes?

7 A. No.

8 Q. Do you know what that means?

9 A. Yes.

10 Q. What does that mean to you?

11 A. It means does the upstairs match the downstairs.

12 Q. On a female?

13 A. Yes.

14 Q. And were you aware of any African-American  
15 person, male or female, applying for employment  
16 at Black Angus Meat?

17 A. No.

18 Q. While you were at the counter, did any person  
19 come in and want to apply for employment at Black  
20 Angus Meat?

21 A. No.

22 Q. Did you ever see anyone request an application  
23 for employment at Black Angus Meat?

1 A. No.

2 Q. Were you ever aware that Regina Rush was dating  
3 an African-American male?

4 A. No.

5 Q. Did you ever hear Sean Round or anyone at Black  
6 Angus Meat say to Raelean Rush and/or Regina Rush  
7 that she would be better off with a white guy?

8 MR. OPPENHEIMER: Form.

9 THE WITNESS: No.

10 BY MS. GRECO:

11 Q. Did you ever hear anyone at Black Angus Meat say  
12 to Regina Rush that she would be better off with  
13 a white guy?

14 A. No.

15 Q. Did you ever hear anyone at Black Angus Meat say  
16 to Raelean Rush that she would be better off with  
17 a white guy?

18 A. No.

19 Q. If an employee said -- if a white employee said  
20 that to Raelean Rush or Regina Rush, would that  
21 be offensive?

22 A. Repeat that.

23 Q. If a white employee said to Raelean Rush, knowing



1 she had an African-American boyfriend, that she  
2 would be better off with a white guy, would that  
3 be offensive?

4 A. Yes.

5 Q. Would that be discriminatory?

6 A. Yes.

7 Q. And if a white employee at Black Angus Meat said  
8 to Regina Rush, at the time she was dating a  
9 black man, that she would be better off with a  
10 white guy, is that offensive?

11 A. Yes.

12 Q. Would that be discriminatory?

13 A. Yes.

14 Q. If a white employee said to Raelean Rush, while  
15 Raelean Rush was dating an African-American male,  
16 that she needed to be with one of her own kind,  
17 would that be offensive?

18 A. Yes.

19 Q. Would that be discriminatory?

20 A. Yes.

21 Q. Did you ever hear anyone say to Raelean Rush that  
22 she needs to be with one of her own kind?

23 A. No.

1 Q. If a white employee was to say to Regina Rush,  
2 who was dating an African-American male, that she  
3 would be better off -- sorry. That she needs to  
4 be with one of her own kind, would that be  
5 offensive?

6 A. Yes.

7 Q. Would that be discriminatory?

8 A. Yes.

9 Q. If a white employee said to Regina Rush, who was  
10 dating a black male, that what's wrong with white  
11 guys, would that be offensive?

12 A. Can you repeat that?

13 Q. If a white employee said to Regina Rush, who was  
14 dating an African-American male, what's wrong  
15 with white guys, would that be offensive?

16 A. Yeah.

17 Q. Would that be discriminatory?

18 A. Yeah.

19 Q. Okay. If a white employee said to either of the  
20 Rush females that were working at Black Angus  
21 Meat, while they were dating an African-American  
22 male, what's wrong with a white guy, would that  
23 be offensive?

1 A. Yeah.

2 Q. Would that be discriminatory?

3 A. Yeah.

4 Q. Would it be ever be appropriate for a white male  
5 employee at Black Angus Meat to tell a female who  
6 was dating an African-American male that her  
7 boyfriend was using her to get her name because  
8 black men always cheat and he probably has a lot  
9 of girlfriends?

10 A. No.

11 Q. Would that be offensive?

12 A. Yes.

13 Q. Would that be discriminatory?

14 A. Yes.

15 Q. Did you ever hear Sean Round say that to Raelean  
16 Rush in those or similar words?

17 A. No.

18 Q. Did you ever hear Bob Seibert say you can talk  
19 about weather and sports, but leave your personal  
20 dramas at home?

21 A. Yes.

22 Q. And when you started working at Black Angus Meat,  
23 was that something he would say?

1 A. Yes.

2 Q. Did he continue to say it during the whole time  
3 you worked there?

4 A. Yes.

5 Q. Have you ever heard him direct it at a specific  
6 employee or just in general?

7 A. Just in general.

8 Q. Did you ever hear anyone make a racial comment at  
9 Black Angus Meat?

10 A. No.

11 Q. Did you ever hear a joke that was offensive in  
12 any way at Black Angus Meat?

13 A. No.

14 Q. Did you ever hear anyone make a joke about  
15 Italians?

16 A. No.

17 Q. Ever hear anyone make a joke about the Pope?

18 A. No.

19 Q. Did you ever hear anyone make a joke about Jewish  
20 people?

21 A. No.

22 Q. Did you ever hear anyone make a joke about  
23 someone who is Polish?

1 A. No.

2 Q. Did you ever hear someone make a joke about  
3 someone who is Chinese?

4 A. No.

5 Q. Did you ever hear someone make a joke about  
6 someone that's Middle Eastern descent?

7 A. No.

8 Q. Did you ever hear any jokes at all at Black Angus  
9 Meat?

10 A. No.

11 Q. Did you ever say any jokes at Black Angus Meat?

12 A. Nope.

13 Q. Did you ever hear anyone refer to black customers  
14 as Bob's nigs?

15 A. No.

16 Q. Did you ever hear anyone refer to Black Angus  
17 Meat customers as nigs?

18 A. No.

19 Q. Did you ever hear Sean Round or anyone say that  
20 he has to deliver to Bob's nigs, referring to  
21 black customers at Black Angus Meat?

22 A. No.

23 Q. Did you ever hear anyone at Black Angus Meat say

1 relative to African-American individuals who were  
2 using food stamps to get food, in these or  
3 similar words, how can they have nice cars and  
4 get food stamps?

5 A. No.

6 Q. Would that be offensive?

7 A. Yeah.

8 Q. Would that be discriminatory?

9 A. Yeah.

10 Q. Did you ever hear anyone say, in these or similar  
11 words, regarding Black Angus Meat  
12 African-American customers, how come they have  
13 nice clothes and get food stamps?

14 A. No.

15 Q. Would that be discriminatory?

16 A. Yeah.

17 Q. Would that be offensive?

18 A. Yeah.

19 Q. Would it ever be appropriate for any manager or  
20 owner of Black Angus Meat to laugh if another  
21 employee made that comment?

22 A. Sorry. Can you repeat that?

23 MS. GRECO: Can you read it.

1                   (Whereupon, the above-requested question was  
2           then read back by the reporter.)

3   MR. OPPENHEIMER:   Form.

4   THE WITNESS:   No.

5   BY MS. GRECO:

6   Q.   Did you ever hear Mr. Lapress say -- wait a  
7           minute.   Strike that.   Did you ever clean the  
8           parking lot?

9   A.   No.

10   Q.   Who cleaned the parking lot?

11   A.   Jamie walked around and picked stuff up.

12   Q.   Were you ever aware of Robert Seibert calling  
13           Jamie Lapress on the phone and asking him to  
14           clean up the parking lot?

15   A.   No.

16   Q.   Did you ever hear Jamie Lapress say, in these or  
17           similar words, that Robert Seibert had called him  
18           and said his nigs are dirtying up the parking  
19           lot?

20   A.   No.

21   Q.   Would that ever be appropriate?

22   A.   No.

23   Q.   Would that be offensive?

1 A. Yes.

2 Q. Would that be discriminatory?

3 A. Uh-huh. Yes.

4 Q. Did you receive any training at Black Angus Meat  
5 regarding policies and procedures?

6 MR. OPPENHEIMER: Form.

7 THE WITNESS: Not really.

8 BY MS. GRECO:

9 Q. Was there any written materials that you received  
10 regarding discrimination, harassmt, hostile  
11 environment or retaliation?

12 A. No.

13 Q. At anywhere that you worked, have you ever  
14 received any information regarding  
15 discrimination, harassmt, retaliation or  
16 hostile environment?

17 A. Not that I recall.

18 Q. Were you ever aware of any complaint by employees  
19 that they were not given lunch breaks?

20 A. No.

21 Q. Were you ever paid -- strike that. Did you ever  
22 call in sick or leave sick and get paid for the  
23 time when you were off?



1 Q. How long did it take you, few minutes?

2 A. A day.

3 Q. A day to learn how to do the smoker?

4 A. You have to learn to do stuff. And if something  
5 is wrong with it, you have to fix the nozzle if  
6 the stuff is not coming out.

7 Q. Who taught you?

8 A. Nelson.

9 Q. The butcher taught you?

10 A. Yes.

11 Q. Were there written instructions or did he show  
12 you how?

13 A. He showed me.

14 Q. And do you know how to break down the equipment  
15 and clean it?

16 A. Yes.

17 MR. OPPENHEIMER: Form.

18 BY MS. GRECO:

19 Q. You were trained to do that?

20 A. Yeah.

21 Q. Were you aware of Darcy Black being able to break  
22 down the equipment and clean it?

23 A. No.

1 Q. Were there slicers that had to be cleaned out  
2 front?

3 A. Yes.

4 Q. Were there slicers that had to be cleaned in the  
5 back?

6 A. Yes.

7 Q. Do you know if Darcy Black made jerky?

8 A. No.

9 Q. Did you ever make jerky?

10 A. Yes.

11 Q. Again, was that difficult to learn how to make?

12 MR. OPPENHEIMER: Form.

13 BY MS. GRECO:

14 Q. You can answer.

15 A. No.

16 Q. Did you ever rotate the coolers and freezers?

17 A. Yes. You mean like move stuff from one to  
18 another?

19 MR. OPPENHEIMER: If you don't understand, ask her.

20 BY MS. GRECO:

21 Q. Do you understand what the rotation of the  
22 coolers means?

23 A. Yes.

1 MR. OPPENHEIMER: Form.

2 BY MS. GRECO:

3 Q. By that, I mean training saying --

4 A. No.

5 Q. Have you ever heard anyone refer to Darcy's  
6 children as nigs?

7 A. No.

8 Q. Did you ever hear anyone refer to Darcy's  
9 children as niggers?

10 A. No.

11 Q. Would it ever be appropriate for Robert Seibert  
12 to say to Darcy Black she would have to get used  
13 to the idea her children were black, there was no  
14 changing that, school kids are cruel and racial  
15 remarks from kids is not unusual?

16 A. No.

17 Q. Would that be appropriate?

18 A. No.

19 Q. Would that be offensive?

20 A. Yes.

21 MS. GRECO: Off the record.

22 (Whereupon, a short recess was then taken.)

23 BY MS. GRECO:

1 Q. Have you ever spoken to Jamie Lapress regarding  
2 Darcy Black or her lawsuit?

3 A. No.

4 Q. Have you ever spoken to anyone at Black Angus  
5 Meat regarding Darcy Black or her lawsuit?

6 A. No.

7 Q. Would it ever be appropriate for Robert Seibert  
8 to tell Darcy Black -- strike that. If Darcy  
9 Black complained to Robert Seibert that Jamie  
10 Lapress referred to her children as niggers,  
11 would it ever be appropriate for Robert Seibert  
12 to say stuff like this happens all the time?

13 A. No.

14 Q. Would that be offensive?

15 A. Yes.

16 Q. Would that be discriminatory?

17 A. Yes.

18 Q. Would it ever be appropriate if Darcy Black  
19 complained to Robert Seibert that Jamie Lapress  
20 referred to her children as niggers, for him to  
21 say, in these or similar words, it happens in  
22 sports or politics so she would have to deal with  
23 it?

1 label them with the appropriate hunter's name and  
2 number or whatever?

3 A. Yes.

4 Q. They trained you on how to weigh meat, is that  
5 true?

6 A. Yeah.

7 Q. And they trained you on how to make sausage and  
8 various other things?

9 A. Yeah.

10 Q. Do you know why they didn't do any training  
11 regarding discrimination, harassment, retaliation  
12 or hostile environment?

13 A. No.

14 Q. If you know, at any time you've been employed at  
15 Black Angus Meat, were you aware of any kind of  
16 investigation into any employee complaints?

17 A. No.

18 Q. At any time that you worked at Black Angus Meat,  
19 were you aware of any investigation by Black  
20 Angus Meat as to any customer complaints?

21 A. No.

22 Q. Do you know a person by the name of Spartus Town?

23 A. Who?